

HONG KONG / JUDGMENT

YUE PEI-LI v. R.

COURT

Court of Appeal

DECIDED

28 April 1993

CASE / FILE NUMBER

CACC347/1992

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj& 1992, No. 347 (Criminal) IN THE COURT OF APPEAL (On appeal from DC Case No 975 of 1991) BETWEEN THE QUEEN Respondent YUE PEI-LI Applicant

Coram : Hon. Silke, V-P., Macdougall, J.A. and Bewley, J. in Court Date of hearing : 28th April 1993
Date of delivery of judgment : 28th April 1993

J U D G M E N T

Bewley, J.: This is the judgment of the Court. The applicant was convicted of conspiracy to defraud by Judge Kilgour in the District Court on the 6th August 1992. It was alleged that she and CHEUNG Kin-chung between the 30th day of December 1989 and the 1st day of May 1991, in Hong Kong, conspired together and with CHUI Kwok-kwan, WONG Kai-wah, HO Chee-cheung and CHANG Man- chiu, to defraud the National Mutual Insurance Company (NMI) by dishonestly presenting to NMI medical claim forms certifying that claimants under NMI insurance policies had been examined by the said YUE Pei-li and been found to have sustained various injuries when the said claimants had not been so examined or sustained the injuries as stated in the said forms, or being reckless as to whether the injuries had been so sustained. All the alleged co-conspirators were agents of NMI and they all pleaded guilty to similar charges. Two of them - CHEUNG Kin-chung, against whom the Crown offered no evidence on this charge, and CHANG Man-chiu -were the only prosecution witnesses. It was common ground that NMI agents had submitted 148 false personal injury claims to NMI under bogus insurance policies. In each instance the money was paid into the bank accounts of the insured, who remained in ignorance of the claims but who were persuaded that a mistake had been made and paid the money to the agents. The applicant is a registered medical practitioner and, as required by NMI, she endorsed and signed each claim certifying that she had seen the claimant and diagnosed or treated his injuries. It was admitted that in none of the cases had she done so. The Crown case was that she did this deliberately knowing that the claims were false and was therefore acting dishonestly in

conjunction with Cheung and the others. Prior to December 1989 the practice was to take an injured claimant to see the doctor and submit a claim form with particulars of the injury, which was signed by the doctor, the agent and the claimant. The front page of the form was filled in by the agent and the doctor completed the certificate on the back. In these circumstances Chang came to know the applicant. He attended her clinic with the claimant who paid the \$100 fee and was examined. The certificate was completed, signed and submitted to NMI. In December, 1989, an injured client was unable to walk to the clinic and the applicant agreed to complete the form in the absence of the patient. Cheung collected it next day and paid \$100 to the nurse. This happened on several occasions. Cheung told the applicant what was wrong, the certificate was completed and signed by the doctor and the claim was paid. These were genuine claims. But Cheung and the other agents realised that this was a potentially lucrative source of income. They decided to manufacture false claims which would be certified by the applicant who would be duped into signing the forms. With the fraudulently acquired payments they could buy premiums from NMI which would boost their turnover and commissions. It would also help their promotion prospects. According to Cheung and Chang the applicant was ignorant of their fraud. Between 1989 and 1991 148 claims were submitted in respect of 69 claimants, none of whom had suffered the injuries described in the certificates written and signed by the applicant. The evidence of Cheung and Chang was that the applicant believed the injuries to be genuine. The applicant is an educated woman. She studied in Shanghai and came with her family to Hong Kong where she obtained a licence to practise. In 1984 she went to the United States of America. In March, 1989, she came back to Hong Kong and started her clinic. After her arrest she made a statement to the police which was exculpatory in nature. In her defence she testified that she had not been dishonest. She signed the certificates without seeing the patients at the request of the agents, who gave her reasons why the patients could not come to see her. She believed she was genuinely helping the poor. She did not know that the claims were false when she was completing the certificates. She accepted what she was told by the agents. The judge made the following findings regarding her evidence: "When faced with incontrovertible lies, such as fictitious treatment, exaggerated injury, the place of examination, she could not satisfactorily explain the reason for those lies except for the assertion that she was blindly following the instructions of PW1 to help Claimants she had never met. She appeared quite unconcerned about the effect of her declarations to the Insurance Company. P75(i) - (LVii) were 71 patients cards which the Defendant had prepared giving the fictitious histories of the patients in whose names the claims were made. They were remarkable documents since in every case they gave not only a description of the injury but also of the treatment given. They were utterly false and the medical phraseology suggests they were not prepared merely by transcribing either what was written on the front of the claim form on a piece of paper given by PW1 and attached to the form. She was unconvincing about these and it was my view that they were prepared to endorse the false particulars contained in the certifications on P73 or P74." The judge noted that, although phone numbers were given on the patients' cards, the applicant never checked to verify their injuries. He took into account that her financial reward was not more than \$15,000, a paltry sum to set against the risk of professional suicide. Parts of her evidence the judge found incredible. She was evasive at times and could not answer simple questions. The judge said he was compelled to

return to the fictions in the certificates. He found that the applicant acted dishonestly. He was satisfied that an agreement existed between the applicant and Cheung to submit certificated claim forms to NMI which they knew to be false. He found that these falsities went beyond what the applicant was told by Cheung and were supplemented by her own false medical records. Mr Whitehouse who appears for the applicant, complains that the judge failed to give himself a direction as to her good character. We are satisfied that a professional judge sitting without a jury is not required to do so. Counsel's main submission is that there is no evidence, first, that the applicant was dishonest and second, that she conspired with the co- conspirator. The certificates themselves contain detailed diagnoses in medical terms. As the judge says, they could not be a repetition of the agents' reports. They are admittedly false concerning the place and the nature of the treatment and in some cases the extent of the injuries. The injuries could, in many cases, have easily been checked by telephoning the patients. This was not done. Some of the patients apparently suffered a series of injuries, which failed to arouse the applicant's suspicions. Others living in Yuen Long suffered injuries which would not have prevented their walking to her clinic. She did not query their failure to do so. All these are factors which in our opinion justify the judge's conclusion that the applicant was dishonest and that she conspired with Cheung to defraud the NMI. No other inference from the applicant's dealings with Cheung is reasonably possible. For these reasons the application for leave to appeal is refused. (William Silke) (Neil Macdougall) (E. de B. Bewley) Vice-President Justice of Appeal Judge of the High Court Mr M N Holmes, SCC, for Crown Prosecutor Mr F C Whitehouse, inst'd by M/s Chun & Kwan, for Applicant PAGE PAGE & `#\$ W[SO @& " & 6" 1992, No. 347 SINODATA Normal Microsoft Word 8.0 1992, No. 347 Title _PID_GUID gGo Microsoft Word MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=3335

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/yue-pei-li-v-r-1993>

Prepared on 27 October 2026 · Esheria